

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 7TH JULY 2006 / 16TH ASHADHA,1928

CRL.A.No. 1240 of 2006()

AGAINST THE ORDER IN CRLP.307/2006 Dated 26/06/2006
CC.1653/2002 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM
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APPELLANT: COMPLAINANT

N.ARAVINDAKSHAN NAIR,
A.N.NIVAS, KOTTAKKAKAM,
PERINADU, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: ACCUSED AND STATE

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1. A.BALAN, VADAKKUMBHAGAM KIZHAKKETHIL
VEEDU, THEVALLY, KOLLAM.
 2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR K.J GEORGE

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION
ON 07/07/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.M.JAMES, J.

CRL.A. 1240/2006

DATED THIS THE 7TH DAY OF JULY, 2006

JUDGMENT

The complainant, who preferred a complaint, before the Court below, the Judicial Magistrate of First Class-I, Kollam, under Section 138 of the Negotiable Instruments Act, in short 'the Act', faced with the dismissal of the same, on the ground that the complainant was absent. The accused was therefore, acquitted. The same is under challenge, through this appeal, after obtaining leave of this Court.

2. The learned counsel submitted that the date of posting was noted wrongly and therefore, there was no representation on the appointed day. Considering the facts of this case, and also that the complaint is preferred under Section 138 of the Act, I set aside the impugned order and restore C.C.No.1653/2002, to the file of the Judicial

Magistrate of First Class-I, Kollam.

3. The complainant shall appear before the Court below, on 27.7.2006. The learned Magistrate is directed to issue summons to the accused and on his appearance, to dispose of the complaint, according to the law, at the earliest, starting from the stage at which it was dismissed.

The appeal is allowed as above.

J.M.JAMES
JUDGE

mrCS